



ANGUILLA

A BILL FOR
THE NATIONAL HEALTH FUND ACT, 2006

Draft 6: 22.09.06

Published by Authority

ANGUILLA

NATIONAL HEALTH FUND ACT, 2006

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I Assent

Alan Edden Huckle

Governor

ANGUILLA

NO. OF 2006

A BILL FOR

THE NATIONAL HEALTH FUND ACT, 2006

An Act to make provision for the establishment of a National Health Fund to purchase health care services for eligible persons of Anguilla as clinically needed and in an equitable manner and for purposes connected therewith or incidental thereto.

[Gazetted

] [Commencement: Section 36]

ENACTED by the Legislature of Anguilla

PRELIMINARY

Interpretation

1. In this Act, unless the context otherwise requires:

“approved health care provider” means a provider approved by the Board

“auditor” means a qualified accountant appointed by the Board to act as an auditor of the Fund;

“Belonger” means a person who is regarded as belonging to Anguilla under the Constitution of Anguilla;

“Board” means the National Health Fund Board established under Section 4;

“contribution” means a contribution payable under this Act;

- “Director” means the Director of the Board appointed under section 7;
- “eligible persons” means persons eligible under this Act to access health care services purchased and financed by the Fund;
- “employer” means any person or body corporate who employs or on whose behalf any other person employs any person under a contract of service, whether oral or written, express or implied; and includes the Government of Anguilla and any government agency;
- “employee” means a person employed by an employer in a gainful employment in Anguilla, under a contract of service, whether oral or written, express or implied;
- “employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly;
- “Fund” means the National Health Fund established under section 2;
- “health care services” means services to be made available to eligible persons under section 19;
- “indigent” means a person who has no visible means of income, or whose income is insufficient for the subsistence of his family, and who is certified as such by the Department of Social Welfare or its successors;
- “Minister” means the Minister responsible for finance unless otherwise specified;
- “prescribed” means prescribed by regulations or rules made under this Act;
- “provider” means a qualified provider of health care services;
- “Social Security Board” means the Board established by the Social Security Act, R.S.A. c. S45;
- “self-employed” means a person occupied in a gainful employment who is not a person employed under an employer.

Part 1

ESTABLISHMENT, OBJECTS AND ADMINISTRATION

Establishment of the National Health Fund

2. (1) There is hereby established the National Health Fund (hereinafter referred to as the “Fund”), for the purpose of purchasing and financing health care services for eligible persons.
- (2) Monies paid into the Fund shall include:
- (a) contributions from employers, employees and the self employed pursuant to section 17 (a);
 - (b) sums from the Consolidated Fund of the Government of Anguilla pursuant to section 17 (b);

- (c) such sums collected under any levies dedicated to this Fund as may be defined in regulations to this Act and approved by the House of Assembly;
 - (d) any payments made by patients pursuant to section 17 (c);
 - (e) all rents, interest or investment or other income derived from the assets of the Fund;
 - (f) sums properly accruing to the Fund including any donations or grants;
 - (g) all sums recovered under this Act as fines, penalties or costs;
 - (h) any other such sums as may be provided by the Consolidated Fund for the purpose of this Act or as may be received and accepted by the Board on behalf of the Fund.
- (3) There shall be paid out of the Fund:
- (a) moneys solely for the purchasing and financing of health care services for eligible persons;
 - (b) any refund of contributions;
 - (c) remuneration or reimbursements of the members of the Board and its committees and co-opted persons;
 - (d) salaries and allowances to the Director and members of the staff of the Board;
 - (e) any other expenses properly incurred in the administration of this Act.

Objects of the Fund

3. (1) Subject to the provisions of this Act and the regulations made there under, the objects of the Fund are to purchase and finance health care services for eligible persons and to ensure that those services are of good quality, and are provided efficiently and cost effectively.

(2) The health care services to be purchased by the Fund shall be specified by the Fund annually and, notwithstanding subsection (1), the Fund shall not be required at any time to purchase any services that are not so specified or that are specifically excluded.

Establishment of the National Health Fund Board

4. (1) There shall be established a Board, to be called the National Health Fund Board (hereinafter referred to as the "Board"), in which the Fund shall be vested.

(2) Schedule 1 of this Act shall apply in respect of the constitution of the Board and its proceedings.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued.

(4) The Board shall have a Head Office in Anguilla, and service on the Board of any notice, order or other document shall be executed by delivering the same or by sending the same by post, addressed to the Director at the Head Office.

(5) The seal of the Board shall be kept in the custody of the Director and shall not be affixed to any instrument except by the authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Director and of such other person as the Board may appoint for the purpose.

Powers and functions of the Board

5. (1) Subject to the provisions of this Act, the Board shall be responsible for the control, management and administration of the Fund.

(2) The Board shall have the powers, in the name of the Fund, to perform or cause to be performed all such acts as bodies corporate may do by law including to purchase or otherwise acquire, hold, charge or alienate real or personal property; enter into contracts; and open, maintain and close accounts with any bank in Anguilla holding a licence under the Banking Act.

(3) The Board may appoint such committees as it may consider necessary, to examine and report to the Board on any matter arising out of any of its functions under this Act, and the composition and functions of any such committee shall be determined by the Board.

(4) The Board shall consider and advise upon all matters which may from time to time be referred to it by the Minister or by the Minister responsible for health and shall furnish to the relevant minister such information as he may reasonably require about the operation of this Act.

(5) The Board shall render annual reports to the Minister by 31st of March each year and shall send a copy of these reports to the Minister responsible for health, and the Minister shall, as soon as possible after receiving any such report, lay a copy thereof before the House of Assembly.

Remuneration of the Board and its committees

6. (1) The Chairman, and each member of the Board in respect of his office as such, shall be paid such remuneration and allowances as the Governor in Council may determine.

(2) Any person co-opted to a meeting of the Board, and any person not being a member of the Board, who serves on a committee of the Board, shall be paid such remuneration and allowances as the Governor in Council may determine upon a recommendation by the Board.

(3) Any remuneration and allowances paid under subsections (1) and (2) shall be a charge on the Fund.

Appointment, powers and duties of the Director

7. (1) The Board shall appoint a fit and proper person to be the executive Director of the Fund on such terms and conditions as the Board may determine.

(2) Subject to the provisions of this Act and any direction by the Minister, the Director shall be charged with the management of the Fund, and the administration and control of the staff of the Board, and in particular:

- (a) the collection of contributions under this Act;
- (b) the payment of approved providers under this Act and of the expenditure necessary for the administration of the Fund;

- (c) the investment of surplus money in the Fund in accordance with the provisions of section 12.

Delegation by the Director

8. (1) The Director may delegate any of his functions under this Act to an employee of the Board, except this power of delegation.

(2) Every delegation under this section may be revocable at will.

(3) Notwithstanding any such delegation under subsection (1), the Director may himself perform any such function so delegated.

Staff of the Board

9. With the approval of the Board, the Director may from time to time appoint persons to be employees of the Board as are necessary for performance of this Act.

Terms and conditions of employment with the Board

10. The terms and conditions of employment of the employees of the Board shall be determined from time to time by the Board.

Part 2

FINANCE

Financial operation of the Fund, accounts, audit, etc.

11. (1) Accounts shall be kept of all monies in the Fund in accordance with international accounting standards and shall be audited annually by an independent auditor.

(2) Within 3 months of the end of the financial year, the Director shall submit to the Board a report containing the following in respect of the financial year:

- (a) an account of the income and expenditure of the Fund, including details of sources of income and of applications of expenditure detailed by recipient;
- (b) a statement of assets and liabilities of the Fund, including details of any investments or securities;
- (c) the auditor's report and any recommendations.

(3) Not later than 2 months prior to the end of the financial year, the Director shall submit to the Board estimates of the Board's expenditure for the succeeding financial year.

(4) Within 1 month of its receipt of the accounts and audit report pursuant to subsection (2), the Board shall submit its annual report of activities including those accounts and audit to the Minister and shall copy the same to the Minister responsible for health, and within 1 month of its receipt, the Minister shall lay the same before the House of Assembly.

(5) Within 1 month of its receipt of the estimates of expenditure for the following year pursuant to subsection (3), the Board shall submit these estimates including any revisions to the Minister and shall copy the same to the Minister responsible for health.

Investment of money

12. (1) Money in the Fund temporarily surplus to expenditure requirements may be invested in short-term interest bearing bank accounts.

(2) The Board shall not make any investments in or make any loans to any person, body corporate, or other entity whatsoever that may be involved in the provision of health care services, supplies or drugs or any other services or goods that may be purchased by the Fund.

Borrowing powers

13. With the approval of the Minister and to the extent necessary to carry out its functions, the Board may borrow money by way of loan, advance or overdraft.

Temporary insufficiency of assets

14. (1) The Board shall ensure that disbursement out of the Fund does not exceed the income thereof on an annual basis.

(2) Any temporary insufficiency of the assets of the Fund to meet its liabilities shall be met by an advance out of the Consolidated Fund.

(3) Subject to the provisions of this Act, any sums advanced under sub-section (2) above shall be repaid to the Consolidated Fund as soon as may be practicable.

Part 3

ELIGIBILITY FOR HEALTH CARE SERVICES PURCHASED AND FINANCED BY THE
FUND**Persons eligible to receive health care services**

15. (1) Persons eligible to receive health care services purchased and financed by the Fund are:

- (a) belongs ordinarily resident in Anguilla,
 - (b) expatriates employed by the Government of Anguilla or any government agency,
 - (c) expatriates on current work permits,
- who shall make contributions to the Fund at such rates as may be prescribed;
- (d) retired persons, subject to subsections (2 and 3);
 - (e) indigents; and
 - (f) members of the family of any person referred to in paragraph (a), (b) or (c).

In this subsection, “members of the family” means the spouse, children, stepchildren or parents of any person referred to in paragraph (a), (b) or (c), who is living with such person and

solely dependent on such person's earnings at the time of receiving any health care services under this Act.

(2) Persons excluded from eligibility are:

- (a) belongers who by working overseas have not made contributions to the Fund;
- (b) expatriates retiring in Anguilla;
- (c) visitors to Anguilla.

(3) Belongers working overseas who intend to retire in Anguilla, can become eligible if they contribute to the Fund at the prevailing rate of contribution declared annually by the Fund for five consecutive years before retiring, or who contribute the equivalent in one lump-sum payment upon retiring to Anguilla.

(4) For the purposes of subsection (3) above, the rate will be set at the average contribution to the Fund i.e. the total annual income to the Fund for the previous year divided by the total number of employed and self employed contributors.

Identification cards

16. The Fund shall cause to be issued a Fund identification card and number for all those eligible but who do not have a Social Security Board registration card and number. Either card is proof of eligibility to health care services purchased or financed by the Fund.

Part 4

CONTRIBUTIONS

Contributors to the Fund

17. Subject to the provisions of this Act, payments into the Fund shall be payable by:

- (a) all persons and bodies corporate liable to make contributions under the Social Security Act and its amendments and at a rate to be prescribed by the Minister each year;
- (b) the Consolidated Fund at a rate to be determined annually in advance by the Minister upon due consideration of the recommendations of the Board pursuant to section 11. (5) of this Act;
- (c) certain classes of patient at rates as may be prescribed by the Minister each year;
- (d) where contributions are levied under paragraphs (a) and (c), the contributions for indigents shall be paid on their behalf by the Government.

The rates in subsections (a), (b) and (c) shall be defined in regulations to this Act and approved by the House of Assembly.

Responsibilities, liabilities and exemptions of contributors

18. (1) Sections 19, 20, and 21 of the Social Security Act shall apply, *mutatis mutandis* for the purposes of responsibilities, liabilities and exemptions of contributors as if they are contributors under the said Act.

(2) Regulations may provide for:

- (a) the registration of employed and self employed persons;
- (b) the payment and collection of contributions;
- (c) the maintenance by employers of records of the payment of contributions;
- (d) the return of contributions paid in error; and
- (e) any other matters incidental to the payment and collection of contributions under this Act.

Part 5**PURCHASE OF HEALTH CARE SERVICES BY THE FUND****Health care services**

19. (1) The Fund shall ensure that health care services shall be made available to eligible persons from approved service providers, public or private. These services shall include:

- (a) primary or first contact services including general medical and clinical practice,
- (b) hospital outpatient and inpatient services including diagnostic, treatment and emergency services,
- (c) diagnostic including laboratory and other medical examination services,

provided at such public or private facilities as may be approved by the Board annually for the above purposes.

(2) Based on recommendation by the Board, the Minister shall make regulations defining these health care services and for the manner in which they may be accessed by eligible persons. These regulations may be revised from time to time and made available to providers and to eligible persons at the offices of the Fund.

(3) Access to hospital services shall be by referral from an approved primary care provider, and access to overseas care purchased by the Fund shall be at the discretion of the Board based on consultation with clinical expertise but the decision of the Board shall be final.

Registration of health care services providers

20. (1) The Board shall make rules to establish requirements for the approval of providers in keeping with nationally established standards and norms for providers which, *inter alia*, may require them to:

- (a) possess certain professional qualifications and experience;
- (b) offer services covering a defined range, and in facilities of an appropriate size and with adequate and acceptable standards of physical structure and equipment;
- (c) accept appropriate payment from the Board for services provided to eligible persons;
- (d) keep adequate and acceptable patient information and accounting records, and make certain information available to the Fund;
- (e) recognise the rights of patients, including the rights of confidentiality;
- (f) adopt defined protocols for the referral of patients between levels of care.

The Board shall make these rules available to any provider or potential provider upon request.

(2) Providers approved by the Board shall be registered with the Fund and made known to eligible persons by way of advertisements in newspapers circulating in Anguilla and at the offices of the Fund.

Part 6

ADJUDICATION AND LEGAL PROCEEDINGS

Determination of questions

21. Any question arising under or in connection with health care services to be provided and entitlement to services, may be determined by the Board, the Director, or a person or tribunal appointed or constituted in such manner as may be prescribed and subject to the provisions of regulations to this Act, the decision in accordance therewith of any such question shall be final.

Grievances

22. (1) An eligible person or a provider who is aggrieved by the acts or omission of any person operating under the Fund may seek redress on the following grounds:

- (a) any violation of the rights of a patient;
- (b) a wilful neglect of duties by the Board or a provider under contract to the Board which results in the loss of, or non-enjoyment of health care services by eligible persons;
- (c) unjustifiable delay in making payments to providers;
- (d) exclusion from registering as a provider;
- (e) any act or omission that undermines or defeats the purpose of the Fund.

(2) Until such time as a separate appeals tribunal is established for the hearing of complaints or grievances in regard to the Fund, the Social Security Decisions and Appeals Regulations, R.R.A. S45-3 shall apply *mutatis mutandis* to the hearing of complaints or grievances under this section, and for the purposes of the said Regulations, the above-mentioned grounds in subsection (1) (a) to (e) shall be treated as grounds under such Regulations.

Offences, penalties, prosecutions, recovery of contributions on prosecution, civil proceedings, proceedings for entitlement lost by employer in default

23. (1) Any person who fails to pay, at or within such time as may be prescribed for the purpose, any contribution which he is liable under this Act to pay commits an offence and for each such offence is liable on summary conviction to a fine of \$1,000 and, in default of payment of such fine, to imprisonment for a term of 1 month.

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contributions of the employer in respect of his employee from his wages or other remuneration commits an offence and is liable on summary conviction to a fine of \$1,000 and, in default of payment of such fine, to imprisonment for a term of 1 month.

(3) Any eligible person who for the purpose of obtaining any services under this Act, whether for himself or some other person, or for any other purpose connected with this Act:

(a) knowingly makes any false statement or false representation; or

(b) produces or furnishes or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular;

commits an offence and is liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of 1 month.

(4) Sections 35, 36, 37 and 38 of the Social Security Act shall apply, *mutatis mutandis* for the purposes of offences, penalties, prosecutions, recovery of contributions on prosecution, civil proceedings, proceedings for entitlement lost by employer in default, and protection of contributions to the Fund by contributors as if they are contributors under the said Act.

Part 7

MISCELLANEOUS

Crown servants

24. This Act shall apply to persons employed by or under the Crown in like manner as if the Crown were a private person, with such modifications as may be made therein by regulation for the purpose of adapting the provisions of this Act to the case of such persons.

Power to make regulations

25. (1) The Minister may make such regulations as are required by this Act to be made and for matters prescribed.

(2) Such regulations may modify or affect the operation of any provision of this Act in such manner as he may consider necessary or desirable generally for giving effect to the principles of this Act.

(3) Notwithstanding anything to the contrary in any other law, where no penalty is specified for any offence under this Act, regulations may provide for a penalty of \$1,000 for each offence being a contravention of or failure to comply with any regulation, or where the offence consists of continuing any such contravention or failure after conviction thereof, \$1,000 together with a further \$250 for each day on which it is so continued.

(4) Any power conferred by this Act to make regulations may be exercised:

- (a) either in relation to all cases to which the power extends or in relation to all such cases subject to specified exceptions or in relation to any specified cases or class of cases; and
- (b) so as to make, as respects the cases in relation to which it is exercised:
 - (i) the full provision to which the power extends or any less provision,
 - (ii) the same provision for all cases to which the power is exercised, or different provision for different cases, or different provision as respects the same case for different purposes of this Act, or
 - (iii) any such provision either unconditionally or subject to any specified condition.

(5) Without prejudice to any specified provision of this Act, any regulation may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.

Regulations to be laid before the House of Assembly

26. (1) All regulations shall be laid before the House of Assembly as soon as may be after they are made and, if within a period of 30 days beginning with the day on which such regulations are so laid, the House of Assembly resolves that the regulations be annulled, they shall thereupon cease to have effect but without prejudice to anything previously done there under or to the making of new regulations.

(2) In reckoning any period of 30 days specified in subsection (1), no account shall be taken of any time during which the House of Assembly is dissolved or prorogued or during which the House of Assembly is adjourned for more than 14 days.

Part 7

CITATION AND COMMENCEMENT

Citation and commencement

27. This Act may be cited as the National Health Fund Act, 2006 and shall come into operation on such date as the Governor may appoint by Notice published in the Gazette.

Speaker

Passed the House of Assembly this day of 2006.

Clerk of the House of Assembly

SCHEDULE 1

CONSTITUTION AND PROCEEDINGS OF THE BOARD*(Section 4 (2))***Composition of the Board**

1. (1) The Board shall consist of 5 persons, of whom:
 - (a) one shall represent the Minister responsible for finance;
 - (b) one shall have board level experience in private sector industry, commerce or finance;
 - (c) one shall represent the Social Security Board;all of whom shall be appointed by the Minister after due recommendation by representatives from the relevant constituencies;
 - (d) one shall represent the Minister responsible for health;
 - (e) one shall represent consumers of health care services;both of whom shall be appointed by the Minister responsible for health after due recommendation by representatives from the relevant constituencies.

(2) Persons shall be able to speak fairly for those they represent, but shall be selected based on their assessed capacity to operate effectively in a non-executive role and to ensure that the objects and interests of the Fund are pursued at all times. Members of the House of Assembly shall not be eligible for appointment to the Board. Individuals active in providing health care services or supplies or who in any way could benefit financially from provision of such services or supplies shall not be eligible for appointment to the Board.

Designation of Chairman

2. The Minister shall designate 1 member of the Board to be the Chairman. In the absence of the Chairman at any meeting of the Board, the members of the Board present shall elect an Acting Chairman from their members to function as such for that meeting.

Term of representative members

3. (1) The representative members of the Board shall hold office for such period not exceeding 3 years as may be determined by the Minister. Any member of the Board shall be eligible for re-appointment.

Resignation and vacancy

4. A member of the Board may at any time, by notice in writing addressed to the respective minister who appointed him, resign his office; and if a member becomes in the opinion of that minister, unfit to continue in office or incapable of performing his duties, that minister shall in such manner as he thinks fit declare the office of the member vacant.

Quorum

5. The quorum for any meeting of the Board shall be 3 including the Chairman or Acting Chairman and the Board may act notwithstanding any vacancy in its membership.

Substitute member

6. A substitute member may be appointed by the respective appointing minister, for any one meeting which a member is unable to attend.

Voting

7. The decision of the Board shall be by majority of votes; the Chairman of the meeting shall have a deliberative vote and in the event of an equality of votes shall have an additional or casting vote.

Minutes

8. Minutes of each meeting shall be kept in proper form by such officer of the Board as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the Chairman or Acting Chairman, as the case may be.

Co-option

9. (1) The Board may co-opt any 1 or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such co-opted person shall have any right to vote.

Conflict of interest

10. If any member of the Board or other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matter, he shall, at the meeting and as soon as is practicable after the commencement of the meeting, disclose the fact of his interest and shall not take part in the discussion, consideration or voting on such contract or other matter.

Board may determine procedure

11. Subject to the provisions of this Act, the Board shall have power to regulate its own proceedings.